

INFORMATION BULLETIN #28

SALES TAX

JULY, 2004

(Replaces Information Bulletin #28, dated December 1992)

DISCLAIMER: Informational bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: Motor Vehicle Sales and Repairs

REFERENCES: IC 6-2.5-1-6, IC 6-2.5-2-2, IC 6-2.5-3-6, IC 6-2.5-5-15, 45 IAC 2.2-3-22, 45 IAC 2.2-5-22, 45 IAC 2.2-5-21

INTRODUCTION

The sale of any vehicle required by Indiana to be licensed for highway use shall be subject to the sales/use tax unless such purchase is entitled to a statutory exemption shown on Form ST-108E.

The selling price upon which the tax will be based will be the actual amount of consideration tendered for the vehicle after deducting all appropriate discounts and trade-in allowances. The deduction for a trade-in allowance applies only to vehicles traded in and does not apply to other property, either personal or real, which is traded for a vehicle.

I. TAXABLE SELLING PRICE

A manufacturer's rebate is not considered deductible for sales tax purposes. This is because the purchaser is not entitled to the rebate until the vehicle is sold. The purchaser is simply assigning in advance the cash rebate to the dealer as part of the purchaser's consideration in buying the vehicle. A documented manufacturer's rebate stipulates that the rebate must be assigned to the dealer by the purchaser and the dealer's gross retail income will reflect the amount of the rebate, therefore, the rebate would be considered taxable for sales tax purposes.

A manufacturer's price reduction is considered deductible for sales tax purposes. This is because the manufacturer is actually reducing the selling price of the vehicle. The dealer (seller) does not receive the amount of the price reduction as consideration.

A dealer's price discount is also considered deductible in determining the amount on which sales tax is charged. The selling price is reduced by the dealer's price discount. The dealer (seller) does not receive the amount of the price discount as consideration for the vehicle sale.

The selling price upon which the tax is based for purposes of calculating the sales tax is indicated by the following examples:

1.	Vehicle Sticker Price	\$12,000
	Dealer Discount	\$ 500
	Used Vehicle Trade	\$ 4,000
	\$1,000 Rebate Assigned as Down Payment by Purchaser	<u>-0-</u>
	Taxable Selling Price	\$ 7,500
2.	Vehicle Sticker Price	\$12,000
	Dealer Discount	\$ 500
	Used Vehicle Trade	\$ 4,000
	\$1,000 Rebate Direct to Customer	<u>-0-</u>
	Taxable Selling Price	\$ 7,500
3.	Vehicle Sticker Price	\$12,000
	Dealer Discount	\$ 500
	Used Vehicle Trade	\$ 4,000
	Manufacturer Price Reduction (not rebate)	<u>\$ 1,000</u>
	Taxable Selling Price	\$ 6,500

Documentation fees for services performed after the transfer of the vehicle are not considered part of the sales price of the vehicle and therefore are not subject to tax. Transfer of the vehicle takes place when the purchaser takes possession and control of the vehicle and assumes the risk of loss, even though title has not yet been transferred. However, the dealer must maintain adequate records to show which services pertain to the fees charged and that the services were performed after the transfer of the vehicle.

II. PURCHASES FROM INDIANA DEALERS

If the vehicle is purchased from a registered Indiana Motor Vehicle Dealer, the dealer must collect the tax and provide to the purchaser completed Form ST-108 showing that the tax has been paid to him. If the purchaser claims exemption and no tax is collected by the dealer, the statement at the bottom of Form ST-108E must be completed and signed by the purchaser. Title applications on sales by registered dealers without a Form ST-108, completed by the dealer, will not be accepted. The ST-108 must be attached to the revenue copy of the title application by the license branch. Whenever a purchaser claims an exemption on Form ST-108E, the dealer must retain a completed exemption certificate.

Effective July 1, 2004 motor vehicles purchased in Indiana to be immediately registered or licensed for use in another state are subject to Indiana sales tax.

Motor vehicles leased in Indiana are subject to sales tax. The tax applies to the primary property location for each periodic payment if the lease requires recurring periodic payments.

III. INSTATE PURCHASES FROM PERSON OTHER THAN INDIANA DEALERS

If a vehicle is not purchased from a registered Indiana dealer, then the license branch must collect the use tax at the time of registration unless the purchaser is entitled to claim exemption from the tax for one of the reasons shown on Form ST-108E.

The license branch will compute the tax due based on the actual selling price of the vehicle if:

- (1) The seller signs a written affidavit under penalty of perjury stating the actual selling price of the vehicle; and
- (2) The buyer presents the affidavit to the license branch at the time of registration.

NOTE: The completion of BMV Form 15-ST will satisfy the written affidavit requirement. All other affidavits must be notarized before acceptance by license branches.

In the absence of an affidavit, the license branch shall compute the tax due based on the presumption that the selling price of the vehicle is the average retail value as shown in a nationally recognized used car guide for that particular vehicle's year, make, and model.

When the tax is collected by the license branch, no ST-108 is necessary; however, the amount of tax collected must be noted on the title application by the license

branch.

If the purchaser claims an exemption on a vehicle not purchased from a registered dealer, the ST-108E must be completed by either the purchaser or the license branch and attached to the revenue copy of the title application by the license branch. The ST-108E must show the specific paragraph under which the exemption is claimed, and be signed at the bottom of the form by the purchaser.

Exemption from the sales tax will not be allowed except for the reasons listed on Form ST-108E.

IV. PURCHASES FROM OUT-OF-STATE SELLERS

New vehicles purchased by Indiana residents and brought immediately into Indiana to be titled and registered are entitled to a credit for state sales tax paid to the other state. Leased vehicles located in Indiana will be subject to sales tax based on the value of the periodic lease payment.

V. SHOP SUPPLIES

Consumable supplies, such as, masking paper and tape, sandpaper, buffing pads, rags, and cleaning supplies, used to repair and service motor vehicles are subject to use tax if purchased exempt from sales tax. The purchaser becomes the final user of such items because its customer does not become the owner of such consumable supplies. Although the dealer may charge the customer for such items, the items are not being sold to the customer in a retail transaction. Use tax should be self assessed and remitted by the purchaser directly to the Department if such consumable supplies were purchased exempt from sales tax.



Kenneth L. Miller
Commissioner